IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

WRIT PETITION NO.3018 OF 2004

M/s. Jayant Oil Products Ltd. Petitioners
vs.
1. Union of India & ors. Respondents

Mr.Niranjan Pandit i/b. M/s.Joy Legal Consultant for the petitioners.

Ms.N.V.Masurkar for the respondents.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ.

DATED : 29th November 2004

P.C.

Heard Mr.Niranjan Pandit, the learned counsel for the petitioners.

2. The petitioners application for refund of C.V.duty paid at the time of re-import was rejected by the Assistant Commissioner of Customs (Refund) on 20th July 1993. The said order was not challenged by the petitioners. However, another application for refund was made by the petitioners before the Assistant Commissioner of Central Excise on 24th September 2003 which came to be rejected on 13th October 1995. Against this order passed by the Assistant Commissioner of Central Excise rejecting the second application for refund, the petitioners preferred appeal before the Commissioner of Customs and Central Excise (Appeals).

The appeal came to be rejected by the Commissioner

(Appeals) on 10th February 1999. The matter was carried by the petitioners in appeal to the Customs, Excise and Service Tax Appellate Tribunal, West Regional Bench, Mumbai. The Tribunal rejected the appeal holding that if the petitioners were aggrieved by the order rejecting the application for refund by the first order dated 20th July 1993, the petitioners ought to have been preferred the appeal instead the petitioners made the second application which obviously was not maintainable and could not have been entertained.

3. The learned counsel for the petitioners relied upon the judgment of the learned Single Judge of this Court in the case of Atul Products Ltd. v. Union of India & ors., 1985 (22) E.L.T. 714 and the judgment of the learned Single Judge of Madras High Court in the case of Pelisetty Somasundaram (P) Ltd. v. Government of India, 1984 (17) E.L.T. 306. Both the judgements have no application to the facts of the present case.

4. Writ petition does not deserve to be entertained.

5. Dismissed summarily.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)